INFORMATION LETTER

Not for Publication — **NATIONAL CANNERS ASSOCIATION** — For Members Only

No. 946 — Washington, D. C. — August 7, 1943

PRICES SET ON BRANCH WAREHOUSE SALES TO RETAILERS AND SALES TO CONSUMERS AND PRIMARY DISTRIBUTORS

MPR 306 Amendment Permits Sales Subject to Delivery Date Price

Amendment 12 to MPR 306, issued August 2 by the Office of Price Administration, establishes maximum prices for canners' sales from branch warehouses to retailers, and sales by canners to ultimate consumers and primary distributors. A canner is authorized by this amendment to price any canned food item manufactured by him and sold from his branch warehouse to retailers by the following method: To his f. o. b. factory price add the freight incurred in shipping from factory to the branch warehouse, and multiply the result by the appropriate mark-up figures listed below:

1. If the sale is made to an independent retail store and priced f. o. b. branch warehouse, that is, delivery charges not included in the price, the mark-ups are—

Canned fruit cocktail, pineapple, peaches and pears	1.085
All other canned fruits, berries, and fruit juices	1.155
Canned corn, green and wax beans, peas, tomatoes, and tomato juice	1.085
All other canned vegetables and vegetable juices	1.14

2. If the sale is made on a delivered basis, that is, the price includes cost of delivery, the mark-ups are—

Canned fruit cocktail, pineapple, peaches and pears	1.135
All other canned fruits, berries, and fruit juices	1.18
Canned corn, green and wax beans, tomatoes, and tomato juice	1.135
All other canned vegetables and vegetable juices	1.20

The above mark-ups are given in the amendment only by reference to MPR 421, from which they are taken.

The amendment in referring to the "mark-up figure" appears to permit a canner selling from a branch warehouse to the institutional trade the mark-ups allowed in Class 4 under MPR 421, but it is understood from OPA that this amendment was not intended to permit canners to use any of the mark-ups applicable to the sales to the institutional trade. Furthermore, we are advised that this amendment applies to LCL shipments only and not to carload sales.

It is not clear in the amendment just what would be classed as a branch warehouse but OPA unofficially interprets the term "branch warehouse" as meaning a warehouse owned and controlled by the canner located at some point removed from the canning factories.

In sales to ultimate consumers canners are permitted the appropriate retail mark-up provided in the retail price orders MPR 422 and MPR 423.

The amendment gives specific directions for computing prices in sales to primary distributors, a definition of which is established by the amendment.

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Government Food Purchases Temporarily Curtailed

Pending revision of the quotas of canned foods reserved for government use, government field buyers have been directed to limit their purchases to 35 per cent of the quotas set in the reservation order. It is understood that the use of 35 per cent in the instructions to buyers is not an indication of the extent of the change that may be made in the amount finally to be purchased, but merely a means of curtailing buying until the final revisions now under consideration are completed.

SETTLEMENT APPLICATION FORMS SENT TO CANNERS

Provision Made for Preliminary Payments Under CCC Offer

The Processed Marketing Division of the War Food Administration is sending to vegetable processors copies of a "Preliminary Application for Settlement" (Form 3) on which they may file claims for preliminary payment under the offer of the Commodity Credit Corporation for the purchase and resale of designated vegetables which are processed in 1943. Accompanying the forms are detailed instructions for the execution of the form.

Payment will be made only on vegetables received at any of the processor's plants after January 28, 1943, on applications filed prior to December 31, 1943. The basis will be that tonnage of raw vegetable actually used in that portion of the pack for civilians.

Adjustment of the final application will be made up to March 31, 1944, if government sales or contracts have been either increased or decreased after final application has been submitted. Notice in either case shall be sent immediately to the Fruit and Vegetable Branch, Food Distribution Administration, Washington, D. C.

Processors who have accepted and complied with the terms of the offer of the Commodity Credit Corporation to purchase and resell designated vegetables which are processed in 1943, and have been certified as eligible by the State War Board, may submit preliminary applications for settlement thereunder in the following manner:

Prepare an original and 4 copies, in accordance with instructions.

A separate application for settlement shall be prepared covering each vegetable processed in each State. Each such application shall include data concerning all plants processing such vegetable in such State.

Two preliminary applications for settlement may be submitted for partial payment prior to final application, if the processor so desires, provided the prices paid or to be paid to growers average not less than the support price set forth in Table I of the "Offer", or not less than the applicable prices approved by the State War Board. If a second application is made the data on Form 3 shall be cumulative from the beginning of the 1943 pack of raw produce purchased after January 28, 1943.

The original and triplicate copies of 1943 CCC Vegetable Form 3 must be submitted prior to December 31, 1943, to the State War Board for the State in which the plants are located.

Payment will be made only on vegetables received at any of the processor's plants after January 28, 1943, and on that portion of the raw vegetable or vegetables used in products that have been sold or are available for sale for civilian consumption.

PROCESSOR PRICES OF FROZEN FRUITS, BERRIES, AND VEGETABLES REVISED UPWARD BY AMENDMENT TO MPR 409

Ceiling Prices to Reflect Increase in Raw Material and Labor Costs

Maximum processor prices for frozen fruits, berries, and vegetables of the 1943 pack were revised upwards on August 6 by the Office of Price Administration to reflect increases in labor costs since October 3, 1942.

At the same time, the OPA set ceiling prices at the processor level for the 1943 pack of frozen apricots, cherries, clingstone peaches, pears, plums, fresh prunes, blackberries, boysenberries, gooseberries, loganberries, black raspberries, red raspberries, and youngberries.

These products are brought under the provisions of Maximum Price Regulation No. 409 (Frozen Fruits, Berries, and Vegetables, 1943 Pack and After) for the first time by Amendment No. 2, effective August 6, 1943. Up to the present they have been priced under Maximum Price Regulation 207 (Canned and Preserved Foods). The ceiling prices for these items reflect increases in both raw materials and labor costs over the 1942 crop.

Following is the text of Amendment 2 to MPR 409.

1. Section 2 is amended to read as follows:

SEC. 2. *List of maximum prices which packers may charge for frozen fruits, berries and vegetables packed and frozen in barrels.* The maximum prices per pound, carload basis f. o. b. shipping point, which packers may charge for the following frozen fruits, berries and vegetables, packed and frozen in barrels after the 1942 pack shall be:

Variety and sugar basis:	*Maximum price per pound, cents*
Cherries:	
4+1	13½
5+1	14
Blackberries: Straight	17½
Boysenberries: Straight	17½
Gooseberries: Straight	13½
Loganberries: Straight	17½
Raspberries, black:	
4+1	17½
5+1	18½
Straight	18½
Raspberries, red:	
4+1	19½
5+1	20½
Straight	20½
Strawberries (Ettersburg variety):	
3+1	17½
3+1 sortouts	15½
4+1	18½
4+1 sortouts	16½
5+1	18½
Straight	19½
Strawberries (other varieties):	
3+1	16½
3+1 sortouts	14½
4+1	16½
4+1 sortouts	14½
5+1	17½
Straight	17½
Youngberries: Straight	17½

When a packer sells a listed item on a "no-storage" basis, that is, at a price which includes only the first month's storage, his maximum price shall be reduced by ¼¢ per pound.

Barreled products which are not listed shall be priced as if they were under section 3.

2. Paragraphs (a), (b), (c) and (j) of section 3 are amended to read as follows:

SEC. 3. *Maximum prices which packers may charge for frozen fruits, berries and vegetables packed and frozen in containers other than barrels*—(a) *General pricing method.* The packer shall figure a maximum price per dozen or other unit, f. o. b. shipping point, for each separate kind, grade, style of pack, container type and size of frozen fruits, berries, and vegetables, packed and frozen after the 1942 pack, in containers other than barrels. The maximum price for such an item, including all storage, shall be figured by adding together his "base price" and his "permitted increase for miscellaneous costs."

(b) *Base price.* The packer's base price in each case shall be his maximum price, f. o. b. factory, for the item under Maximum Price Regulation No. 207, after it has been adjusted for raw material costs. However, no maximum price authorized under § 1341.202 (d) for the 1943 pack of any item may be used. (If the packer sold or delivered none of the 1942 pack of the item between August 24, 1942, and June 16, 1943, his base price shall be the maximum price, adjusted for raw material costs, which he would have figured for the 1942 pack of the item if Maximum Price Regulation No. 207 had been effective January 1, 1942.) Adjustments for raw material costs shall be made as follows:

(1) *Adjustment for commodities included in the Commodity Credit Corporation's raw materials program.* In the case of commodities included in the Commodity Credit Corporation's raw materials program the packer shall adjust for raw material costs in each case, as follows: First, he shall determine the weighted average cost for raw materials used in the 1942 pack of the product which he figured under § 1341.202 (b) (2) of Maximum Price Regulation No. 207. If this figure is less than the price at which the Commodity Credit Corporation will resell the raw product to packers in that area, after these figures have been converted to cents per dozen or other unit of the finished product, the difference between them shall be added to the maximum price for the item under Maximum Price Regulation No. 207. If this figure is greater than that resale price, after conversion to a finished product basis, the difference between them shall be subtracted from the maximum price for the item under Maximum Price Regulation No. 207. The figure resulting from this addition or subtraction is the packer's base price in sales to purchasers other than United States agencies. (In figuring base prices in sales to United States agencies, the packer shall use the Commodity Credit Corporation's purchase price for the area in which the packer received delivery of the raw materials, instead of the resale price, when making the foregoing calculations.) Commodities included in the Commodity Credit Corporation's program include:

Beans, snap
Corn
Peas

Purchase and resale prices under the Commodity Credit Corporation's raw materials program are published by the Department of Agriculture and may be obtained from its local State war boards.

(2) *Adjustment for commodities not included in the Commodity Credit Corporation's raw materials program.* In the case of the following commodities, the packer shall adjust for raw material costs in each case by adding to his maximum price for the item under Maximum Price Regulation No. 207 the appropriate figure named in the following table (after conversion to cents per unit of the finished product).

Variety:	*Cents per pound (raw weight)*
Asparagus:	
California, Oregon and Washington	1½
Other States	1
Spinach	0

In the case of the following commodities, the packer shall adjust for raw materials by subtracting the weighted average cost for raw materials used in the 1942 pack of the product which he figured under § 1341.202 (b) (2) of Maximum Price Regulation No. 207 from the appropriate figure named in the following table (after conversion to cents per unit of the finished product) and adding the difference so obtained to his maximum price for the item under Maximum Price Regulation No. 207.

Variety:	*Cents per pound (raw weight)*
Cherries	8½
Blueberries (wild):	
Maine, New Hampshire, Vermont, and Massachusetts only	12
(For other blueberry prices, see table below)	
Boysenberries	12
Gooseberries	8
Loganberries	12
Raspberries, Black	13
Raspberries, Red	15
Strawberries (Ettersburg variety)	14
Strawberries (Other varieties)	12
Youngberries	12
	Dollars per ton (raw weight)
Peaches, clingstone	60
Pears:	
California	65
Oregon and Washington	75
(For other pear prices, see table below)	
Plums	55
Prunes, fresh	40
Other varieties	(to be announced)

In the case of the following commodities, the packer shall adjust for raw material costs by subtracting the weighted average cost for raw materials used in the 1942 pack of the product which he figured under § 1341.202 (b) (2) of Maximum Price Regulation No. 207 from the weighted average cost for raw materials used in the 1943 pack of the product, based on not less than the first 75 per cent of his 1943 purchases, and adding the difference so obtained (after conversion to cents per unit of the finished product) to his maximum price for the item under Maximum Price Regulation No. 207. However, the packer may not add an amount greater than the figure listed below (after the listed figure has been converted to a finished product basis).

	Cents per pound (raw weight)
Blueberries (cultivated)	3
Blueberries (wild):	
States other than Maine, New Hampshire, Vermont and Massachusetts	3
Cranberries	3
Currants	3
Dewberries	3
Elderberries	3
Huckleberries	3
Johnsonberries	3
Olympic berries	3
	Dollars per ton (raw weight)
Apricots	31
Pears:	
States other than California, Oregon and Washington	8
Other varieties	(to be announced)

Commodities for which no figure is named continue to be subject to Maximum Price Regulation No. 207.

(c) *Permitted increase for miscellaneous costs.* The packer's permitted increase for miscellaneous costs shall be figured by adding the following factors:

(1) The packer's permitted increase for labor shall be figured by multiplying the "base price" for the item by the appropriate percentage figure named in Appendix A. However, for areas for which no percentage figure is named in Appendix A, and for those items which are included in the labor subsidy program of the Commodity Credit Corporation, that is, snap beans, corn and peas sold to purchasers other than United States agencies, the packer's permitted increase for labor shall be 0. (For snap beans, corn and peas sold to purchasers other than United States agencies, compensation for labor increases is given by the Commodity Credit Corporation in certain prescribed situations.)

(2) For cold-packed commodities, an additional one-quarter cent may be added for each pound of the finished product in a unit of the size being priced.

(j) *Items sold on a "no-storage" basis.* When a packer sells an item of frozen fruits, berries or vegetables on a "no-storage" basis, that is, at a price which includes only the first month's storage, his maximum price under paragraph (a) shall be reduced by ¾¢ per pound of the finished product in the case of quick-frozen items and ¼¢ per pound in the case of cold-packed items.

3. Sections 18 and 19 are added to read as follows:

SEC. 18. *Reports which packers must file.* Every packer shall file with the district or State office of the Office of Price Administration for the area in which he is located a statement showing:

(a) The maximum prices which he has figured under this regulation and the items to which they are respectively applicable. Where any maximum price is figured on a delivered basis, he shall also show his price figured on an f. o. b. shipping point basis.

(b) A list of all his customary allowances, discounts, and other price differentials.

The statement for any item shall be filed on or before August 31, 1943, or within twenty days after the maximum price for it has been established in the manner explained in section 15.

SEC. 19. *Records which packers must keep.* (a) Every packer shall keep a copy of the report which he must file under section 18 in order that it may be examined by any person during ordinary business hours. Any packer who claims that he would be substantially injured by showing this statement to another person may file it with the district or State office of the Office of Price Administration for the area in which he is located, with a statement explaining why he would be substantially injured. The information will not be shown to anyone unless withholding it would be contrary to the purposes of this regulation.

(b) Every packer shall keep for examination by the Office of Price Administration, as long as the Emergency Price Control Act of 1942, as amended, remains in effect, records of the same kind as he has customarily kept, relating to the prices which he charged after June 16, 1943.

4. Appendix A is added to the regulations, to read as follows:

APPENDIX A—WAR LABOR BOARD ADJUSTMENTS FOR FROZEN FRUITS, BERRIES AND VEGETABLES

[Percentages named are to be applied to "base prices"]

	AREAS			
VEGETABLES	1	2	3	4
	Pct.	*Pct.*	*Pct.*	*Pct.*
Asparagus	3.5	5	3.5	3.0
Corn*	4.5	4.5	4.0	4.0
Peas*	3.0	4.5	3.0	3.0
Lima beans	3.0	4.5	4.5	3.5
Snap beans*	4.0	4.5	4.0	4.0
Spinach	4.5	5.5	4.5	5.0
Other vegetables	6.0	6.0	6.0	6.0
FRUITS				
Apples	2.5	2.5	2.5	2.5
Peaches	5.0	5.0	5.0	3.0
Cherries	3.0	2.0	2.0	3.0
Apricots	...	...	...	3.5
Grapes	3.0	3.0	3.0	3.0
Other fruits	2.0	2.0	2.0	2.0
BERRIES				
Strawberries	4.5	4.5	4.0	2.0
Raspberries, red	1.5	2.0	1.5	1.5
Raspberries, black	2.0	3.0	2.0	2.0
Blackberries	2.5	2.5	2.5	1.5
Other berries	2.0	2.0	2.0	2.0

* For varieties indicated with an asterisk no increase may be taken for sales to purchasers other than United States agencies.

STATES INCLUDED

[Others will be added as the facts justify it]

Area 1 New York.
Area 2 Delaware and Maryland.
Area 3 Ohio, Indiana, Illinois, Michigan, Wisconsin, Minnesota.
Area 4 Colorado, Utah, Washington, Oregon, California.

This amendment shall become effective August 6, 1943.

WANTED AND FOR SALE

Machinery—Equipment

This column is open only to members of the Association who want to buy or sell canning machinery and equipment. Names of firms listing the items below will be furnished upon application to the Association. In requesting names, please identify items by number.

WANTED

98-W—125-h.p. boiler. Must be in good condition.

99-W—250-gallon stainless steel jacketed kettle, or plain kettle with coils.

FOR SALE

268-S—Nine-foot goose neck elevator with six-inch pockets.

269-S—Two Enterprise power choppers, models No. 41 and No. 52.

270-S—1,200 berry chests.

271-S—Boomer and Boschert juice press, complete.

272-S—Centrifugal pump with booster, 450 gallons per minute.

Puerto Rico Labor Plans

Plans for bringing Puerto Ricans to work on farms and in war industries in the continental United States are being worked out by Insular and Federal agencies in an effort to relieve the labor shortage here as well as the unemployment situation in Puerto Rico, the Department of the Interior announced August 2. The Puerto Rican Insular Government already has sent 256 industrial workers to the mainland and all have been placed in war industries.

CONGRESSMAN ANDRESEN SETS OUT INTENT OF CONGRESS IN AMENDING THE EMERGENCY PRICE CONTROL ACT

Writes Letter to Washington Newspaper Giving Entire Legislative History of Bill on Which President Issued Statement

The Washington Post on August 5 published a letter from Representative August H. Andresen of Minnesota taking issue with an editorial in the July 21st issue of that paper regarding the amendment of the Emergency Price Control Act, upon which the President had issued an interpretative statement when he approved the bill. Representative Andresen's communication to the *Post* is reproduced below because of its interest to all canners.

The independence of *The Washington Post* is a source of gratification to its readers. Yet an independent editorial policy should carry with it the duty of at least minimum inquiry into the facts on which an opinion is offered to the reading public. And where you venture to suggest "serious discredit upon Congress" and talk about "irresponsible law-making", as in your editorial of July 21st entitled "Ambiguous Laws", one might expect that a newspaper in the nation's capital, with ready access to the Congressional Record and committee reports, would normally have made some independent examination.

Your editorial was occasioned by the Presidential Statement of July 16, 1943, issued at the time he approved House Joint Resolution 147. In this he set forth a personal opinion as to the meaning of a provision of that law which amended the Emergency Price Control Act. This amendment restricted the authority of the Price Administrator to eliminate or curtail the use of trade or brand names, to require that commodities be grade labeled, or to issue price ceilings based upon standards or specifications formulated by OPA officials alone. It is obvious that the writer of your editorial read neither the text of the Congressional enactment, nor the committee report explaining it. He based his criticism of Congress merely on the President's statement. In doing so, he suggested that Congress had failed "to make clear its intentions", that the bill was "obscurely phrased", and "in conflict with the terms of an appropriation bill banning grade labeling." Accordingly, the editorial writer gave his blessing to the almost unprecedented issuance of an "interpretative reservation" by the Chief Executive.

As a member of Congress, as the author of the original Appropriation Act provision, and as an active participant in formulating the amendment which replaced it, I am hopeful that you will correct your erroneous statements and perhaps withdraw your unwarranted strictures on the intelligence and integrity of Congress. For even a casual examination of this amendment and its legislative history will show that your statements are erroneous and your comment both superficial and unwarranted.

In the first place, the amendment to the Emergency Price Control Act is not in conflict with the provision in the National War Agency Appropriation Act. It could hardly be, because in this same H. J. Res. 147 the provision in the Appropriation Act was specifically repealed.

Second, Congress very clearly explained what this amendment was intended to do. Congress did so in the Conference Report (Report 697, July 8, 1943) made by the House Managers when they presented the amendment for House approval after it had been passed by the Senate. It is well settled that a definitive statement by a Congressional committee is controlling evidence of legislative intent, if the words of the law are not clear in themselves. (This is not true in the present case, but even if it had been, a mere reading of the statement of the House Managers filed with the Conference Report would have clarified any question.)

Unfortunately, the Presidential statement made no mention whatever of this Conference Report. Neither did your editorial.

Third, the amendment is not ambiguous. Both its derivation and its meaning are clear. As stated in the Conference Report, its purpose was "to meet the objection that the Price Administrator has exceeded the limitations expressed in Section 2(h) of that Act (the Emergency Price Control Act of 1942) in issuing certain regulations already promulgated." When the OPA appropriation was considered in the House, that body inserted a proviso that none of the funds:

> "shall be used for the promulgation or enforcement of orders requiring grade labeling, standardization of food products, wearing apparel, or other processed or manufactured commodities or articles."

Both the House and Senate debates make it clear that this amendment was intended to emphasize the prohibition, already found in Section 2(h) of the Price Control Act, against compelling changes in customary business practices. There was no doubt that both it, and the amendment which replaced it, clearly and specifically prohibited any restriction on the use of brands or trade names, and prohibited the required grade labeling of any commodity. The only question debated at that time, or later, involved the authority of the OPA to standardize commodities as the basis for issuing a price regulation.

Price Administrator Brown objected to the original Appropriation Act proviso. He was reported by Senator McKellar to have stated that standardization was "primarily the function of the war production agencies", such as the War Production Board and the Food Administration. He pointed out that out of 290 regulations in which price ceilings were tied to standards or specifications, in 150 the standards were accepted trade categories, in 90 the specifications were established by other Government agencies, and that only 41 had been developed by the OPA. You might care to examine the Congressional Record for June 18 and June 30, 1943, at pages 6203 and 6895, and also that of July 2d, at pages 7214-15, at which place the writer explained the purpose of the original provision on this point. Briefly, it was to take the power to standardize out of the hands of the OPA. It did not preclude the use of standards or specifications in pricing, but required that those used be either already developed trade standards or standards and specifications formulated and put into effect by some other Government agency.

When H. J. Res. 147, the bill to continue the life of the Commodity Credit Corporation, came before the Senate Committee on Banking and Currency, Price Administrator Brown asked that the appropriation proviso be repealed, and that a more specific amendment be provided. He suggested alternate language. Under this he would continue to be specifically prohibited from interfering with trade names or trade-marks, and prohibited from requiring that any commodity be grade labeled. As to the power to standardize, his original suggestion was that he be permitted to do so wherever he determined "that no practicable alternative exists for securing effective price control" of the particular commodity. He likewise requested language to the effect that no price order should be deemed to require standardization where it used either trade specifications or those established by another Governmental agency.

When this proposal of Mr. Brown was presented to the Senate, Senator Taft proposed a change. Under this, it was made clear that the Administrator could tie dollars and cents price ceilings to a standardization program, but, as a separate limitation, it was provided that whenever he did so he would have to use either the specifications or standards already in general use in the industry, or those which were formulated and lawfully required by some other Government agency.

In other words, the Senate by its changes made it clear that the OPA, acting alone, was not to be authorized to standardize commodities and use such standards as the basis for price ceilings. If no standards existed in the industry, then some other Government agency—such as the War Production Board, the Food Administration, the Food & Drug Administration, etc.—was to provide them.

Whether this is or is not sound policy is not debated in your editorial. Indeed, insofar as the editorial adopts the statement in the Presidential release that trade standards are frequently

lacking or very incomplete, it wholly misses the point that Congress has provided ample authority for necessary wartime standardization. But Congress has made it equally clear that the professors and business neophytes at the OPA are not to be given the power to turn American industry upside down on the theory that to do so is necessary for price control.

As I have already indicated, Congress made this abundantly clear in the statement of the House Managers filed with the Conference Report from which I am taking the liberty of quoting:

"The first clause prohibits any attempt to eliminate or restrict the use of trade and brand names, and clarifies the original congressional intention on this subject. The second clause prohibits any requirement for grade labeling of any commodity as that term is defined in section 302(c) of the act. This definition embraces all commodities and products, including hosiery and wearing apparel. The third clause requires that before any commodity may be standardized, the Administrator must determine that no practicable alternative method exists for securing effective price control of the commodity. The fourth clause prohibits the tying of maximum prices to specifications or standards under any circumstances unless such specifications or grades have previously been in wide, general use in the affected industry, or have previously been lawfully required to be used, in the sale of commodities, by some other Government agency acting pursuant to congressional authorization. Thus price ceilings may be based only on grades and specifications which are in wide, general use in an industry, such as those prevailing in the lumber business; or may be based on legal standards or specifications promulgated under the Food, Drug, and Cosmetic Act or the Federal Meat Inspection Act. But requirements that standards or specifications be used in manufacturing or selling, or that such standards appear on the invoice, are prohibited except where such standards or specifications are in wide, actual commercial use, or are lawfully required by some other Government agency, acting pursuant to statute, to be used in the sale of the affected commodities. Voluntary, advisory, warehousing, proposed, or tentative specifications or standards, issued by administrative officials, cannot be written into law merely by being put into maximum price regulations.

"Each of these four limitations is made separately applicable to the issuance of maximum-price regulations, and is designed to make certain and specific the congressional intent originally embodied in section 2(h) of the act. That section provided that—

"'The powers granted in this section shall not be used or made to operate to compel changes in the business practices, cost practices or methods, or means or aids to distribution, established in any industry, * * *.'"

From this you will see that the Presidential statement proves too much. It reads the third clause of the amendment as overriding the fourth despite the clear statement that each limitation is to be separately applicable. Moreover, if the third clause overrides the fourth clause, there is no reason why it could not override the first and second. If this interpretation were followed, no clearer cut example of thwarting the will of Congress could be produced.

Lastly, your editorial fails to deal with the true significance of this Presidential "interpretative reservation." It is commonplace that under our constitutional system the President has no power of qualified approval of a bill. He is without authority to change a single word of any Congressional enactment, but may merely approve or disapprove. In other words, he has a veto power but no legislative power. Likewise, the power of interpreting Congressional enactments lies with the courts and not with the executive department. If by disregarding the text of a statute and its legislative history as reflected in committee reports, the President may in approving a measure make what you call "interpretative reservations", there is obviously an unwarranted and unconstitutional usurpation of power. In these circumstances it seems to the writer that the criticism expressed in your editorial is misdirected.

GRADE LABELING OF MEAT IS REQUIRED BY OES ORDER

Vinson Bases Regulation on Authority of President to Stabilize Prices

The regulations of the Office of Price Administration requiring Federal grading and grade labeling of beef, veal, lamb and mutton were replaced on August 5 by a regulation issued by the Office of Economic Stabilization. The OES regulation keeps in effect the grading and grade labeling provisions of the Office of Price Administration price regulations which establish maximum prices for all beef, veal, lamb and mutton by reference to uniform grades promulgated by the Department of Agriculture. The OES regulation requires that all of these meats be graded according to those grades by Federal graders and that the grade be marked on the carcass and the wholesale cut and left on the retail cut.

In its statement regarding the issuance of the regulation, the Office of Economic Stabilization said:

"The requirements for Federal grading and grade marking had been recommended to OPA by the industry itself and welcomed by the industry during the nine months they have been in effect under OPA regulations. The Taft amendment to the Emergency Price Control Act of 1942 deprived OPA of its power to require grade marking of meats. This amendment was passed as a part of the Commodity Credit Corporation Appropriations Act of 1943. By its terms and as explained on the floor of the Senate the amendment was only a limitation on the power of OPA. Unaffected was the power earlier granted by Congress in the act of October 2, 1942, authorizing the issuance of regulations by the President to accomplish the stabilization of prices affecting the cost of living. By Executive Orders that authority and responsibility for its exercise has been delegated to the Director of Economic Stabilization."

Grade Labeling Requirement Formally Revoked by OPA

By revoking paragraphs (e) and (f) of Section 1341.565 of Maximum Price Regulation 306, the OPA has formally eliminated the grade labeling requirements in this order.

Paragraph (e) in the original regulation required grades on labels of all canned foods subject to the regulation. The paragraph was later changed by Amendments 8 and 9 to require grades on labels only when two or more grades of the same product were packed under the same brand. Amendment 13, just issued, revokes paragraph (e) with its amendments, as well as the related paragraph (f).

This amendment does not alter other requirements of the regulations with respect to grades or the requirement that the grade be stated on the invoice.

Appeals to CCC on Added Raw Products Transportation Costs

California canners have been advised by the Commodity Credit Corporation that certain specific data will be required as a basis for a claim under paragraph 10(a) of the CCC offer, for an increase in the purchase price to defray the cost of transporting tomatoes from roadside delivery points to the processor's plant.

The formal offer of the Corporation provides that canners may appeal in cases where the processor "incurs additional costs in order to obtain a vegetable delivered at his plant."

Alaska Salmon Pack Report

According to figures reported by the U. S. Fish and Wildlife Service, the Alaska salmon pack through July 24 totaled 2,660,067 cases, as compared with 1,492,749 cases in the corresponding period of last season. Of the pack this season, 1,755,058 cases were Red salmon, as compared with 757,099 last season. Red salmon thus accounting for 997,959 cases out of a total increase of 1,167,918 cases.

PRICES SET

(Continued from page 7793)

The amendment also permits canners to sell canned foods covered by the Regulation at the maximum price in effect at the time of delivery. Canners may not, however, agree to deliver at a higher price than that in effect on the date of delivery unless they are specifically authorized to do so by the Office of Price Administration.

The following form of contract clause is suggested for inclusion in canners' sales contracts to cover the adjustable pricing permitted by the OPA:

"Buyer and seller agree that the prices specified in this contract shall be adjusted to conform with the maximum price established by the Office of Price Administration at the time of delivery of the goods covered by this contract."

Canners whose contracts are printed may stamp the above clause on the face of the contract.

Text of Amendment

Text of amendment 12 follows:

Maximum Price Regulation No. 306 is amended in the following respects:

1. Section 1341.551 (e) is amended to read as follows:

(e) "Processor" means the canner, manufacturer, or packer, as the case may be, of the kind and brand of packed food product being priced.

2. Section 1341.553 is amended by adding paragraphs (d) and (e), to read as follows:

(d) *Maximum prices for sales by processors from their branch warehouses.* A processor who sells an item from a branch warehouse owned or controlled by him to an independent retail store or commercial, industrial or institutional user shall figure his maximum price for those sales by adding together factors (1) and (2) and multiplying the result by factor (3):

(1) The maximum price named for the item, f. o. b. factory.

(2) The freight, if any, incurred from factory to branch warehouse. (Processors who have more than one factory or branch warehouse may average freight from factory to branch warehouse in the same manner as processors are allowed under paragraph (a) (1) to average outgoing freight.)

(3) The mark-up figure, appropriate to the particular sale, which would have been applicable to him as a "wholesaler" operating under Maximum Price Regulation No. 421, had he purchased the finished product and not canned, manufactured or packed it. This mark-up, however, may be added only when the particular goods sold have been warehoused at the branch warehouse.

(e) *Maximum prices for sales by processors to ultimate consumers.* Processors who sell the items they make to ultimate consumers other than industrial, commercial or institutional users are normally retailers as well, that is, persons whose general business is selling at retail items manufactured by others. Retailers are covered by Maximum Price Regulations Nos. 422 and 423, which also provide a pricing method for items that a retailer may happen to manufacture or process himself (see section 25 of MPR 422). Processor-retailers, therefore, shall figure their maximum prices under those regulations.

3. A new § 1341.562 is added as follows:

§ 1341.562 *Maximum prices for distributors other than wholesalers and retailers*—(a) *Primary distributors:* A "primary distributor" is a distributor, other than a wholesaler or retailer, who purchases all he sells of the kind and brand of packed food product being priced and who customarily receives shipment from the packer of at least 50% of his purchases in carload lots delivered to a warehouse or other receiving station not owned or controlled by any of his customers, for resale by him in less than carload lots.

There are two pricing methods for primary distributors.

Pricing Method No. 1: A primary distributor may use the following pricing method only if he sold the kind of packed food product being priced as a primary distributor before April 28, 1942, and he may use it only when he is selling, in less-than-carload lots, merchandise which he has actually warehoused (in normal situations the pricing method will give him the same dollars and cents margin that he previously had):

If the processor's maximum price for the item under this regulation is *greater* than the processor's maximum price under the maximum price regulation previously applicable to the processor, the primary distributor shall *add* the difference to the maximum price which he had immediately prior to August 5, 1943. If the processor's maximum price for it under this regulation is *less* than the processor's maximum price under the maximum price regulation previously applicable, the primary distributor shall *subtract* the difference from the maximum price which he had immediately prior to August 5, 1943. However, in no event may the primary distributor's maximum price be greater than the net delivered cost (based upon purchases directly from the packer) plus a mark-up of 8% of that cost. The resulting figure in each case is the primary distributor's maximum price for the item when warehoused by him and sold in less-than-carload lots.

Examples: The processor's ceiling under MPR 152 for the No. 2 can of X brand tomatoes was $1.10 a dozen. Under MPR 306, it is now $1.325. The primary distributor therefore adds the increase of $.225 to his own ceiling price (under GMPR).

The primary distributor handled canned tomatoes as a primary distributor before April 28, 1942. He added canned peas to his line in October 1942. Although he may use Pricing Method No. 1 for canned tomatoes, he must use Pricing Method No. 2 for canned peas.

If the primary distributor handled the kind of packed food product being priced before April 28, 1942, but did not handle the particular brand, size or container type being priced before August 5, 1943, his maximum price for the new item shall be his net delivered cost (based on his first purchase of the item after August 4, 1943) plus the percentage mark-up which he is permitted to charge, under the foregoing pricing method, for the most closely comparable item of that kind of packed food product already handled by him.

Pricing Method No. 2. For all items, and sales of such items, which are not covered by Pricing Method No. 1, the primary distributor's maximum price f. o. b. shipping point, shall be the maximum price of his supplier, f. o. b. shipping point, plus incoming freight paid by him.

(b) *Distributors who are not primary distributors, wholesalers, or retailers.* The maximum price for an item f. o.b. shipping point, of a distributor who is not a primary distributor, wholesaler or retailer shall be the maximum price of his supplier, f. o. b. shipping point, plus incoming freight paid by him.

A "distributor" is one who purchases all he sells of the kind and brand being priced and resells it without packing and processing any part of it.

4. A new § 1341.562a is added as follows:

§ 1341.562a *Restriction on packers' sales to primary distributors.* No packer may sell to primary distributors a greater percentage of his 1943 pack of any item than he sold to primary distributors during the one-year period ending April 28, 1942.

5. A new § 1341.566 is added as follows:

§ 1341.566 *Adjustable pricing.* Any person may agree to sell at a price which can be increased up to the maximum price in effect at the time of delivery; but no person may, unless authorized by the Office of Price Administration, deliver or agree to deliver at prices to be adjusted upward in accordance with action taken by the

Office of Price Administration after delivery. Such authorization may be given when a request for a change in the applicable maximum price is pending, but only if the authorization is necessary to promote distribution or production and if it will not interfere with the purposes of the Emergency Price Control Act of 1942, as amended. The authorization may be given by the Administrator or by any official of the Office of Price Administration to whom the authority to grant such authorization has been delegated. The authorization will be given by order.

6. Section 1341.577 (a) is amended by adding a new subparagraph (2), as follows:

(2) "Wholesaler" and "retailer" mean the persons respectively referred to as "wholesalers" and "retailers" in Maximum Price Regulations Nos. 421, 422, and 423.

This amendment shall become effective August 5, 1943.

Formula Pricing Method for Canned Fruits and Vegetables

A number of questions have arisen with respect to the details of the application of the formulas in Amendments 9 and 11 of MPR 306. These have been brought to the attention of OPA and it is understood that a clarifying amendment is now being prepared.

Canners will probably be required to report not only their ceiling prices as calculated by these formulas, but also the details of their calculations, which will be based on the reports submitted to OPA last year under MPR 152 for canned vegetables and MPR 185 for canned fruits and berries. Canners will, no doubt, have file copies of their reports submitted to OPA last year. If, however, these copies are not available, the forms used last year may be found in the INFORMATION LETTERS of June 13, 1942, and August 22, 1942.

Canners Directory Issued

The 1943 edition of the Canners Directory, compiled by the National Canners Association, is being distributed to members and to firms who used advertising space. Non-members and other interested parties may purchase copies at $2 each. The Directory lists the names of canners, their addresses, plant locations, and the commodities they pack. It includes the names of officers of the National Association and of State, regional, and commodity canners associations. Officers and members of the Canning Machinery and Supplies and National Food Brokers Associations also are listed.

WFA SETS SUPPORT PRICES FOR RAISINS, DRIED PRUNES

Will Purchase Entire 1943 Production at New Support Levels

Support prices for West Coast natural condition raisins and dried prunes were announced August 2 by the War Food Administration.

The prices, which will be supported through offers to purchase by the War Food Administration, were established in view of the need for capacity output of these dried fruits to meet war needs. Both of these fruits are set aside under Food Distribution Order 16, so that Government requirements may be met, with provision for the release of quantities to meet civilian needs.

The grower support prices for raisins are: Thompson Seedless $155 per ton; Muscats, $165; Sultanas, $150. Prices for dehydrated raisins will be announced at an early date.

Grower prices for prunes which will be supported are: California 3-District, 8½ cents per pound basis (i. e. on the basis of 80 prunes per pound) and for California "Outside" District, 8¼ cents per pound basis. Support prices for Washington and Oregon prunes will be the same as for California "Outside" prunes of comparable size. These basic prices are expected to return to growers an average of $185 per ton for 3-District, $180 for "Outside" District, and $195 for Northwest fruit.

The War Food Administration will purchase the entire 1943 production of raisins and dried prunes, at prices which will be based on the new support levels.

These grower prices reflect increases over 1942 prices of roughly $45 per ton, to cover higher production costs and encourage the drying of sufficient quantities to meet military, civilian and Lend-lease requirements. These increased costs, however, will not be reflected in retail prices. Under a Commodity Credit Corporation purchase program, the quantities to be available for civilians will be resold in normal trade channels at prices equivalent to last year's levels.

Changes Made in OPA Staff

Frank E. Marsh, OPA Regional Administrator for the San Francisco region, has been appointed Executive Assistant for Field Operations of the OPA. This appointment, it is stated by Chester Bowles, General Manager of the Office of Price Administration, is the first step in a broad program of decentralization. "I am authorizing him to act for me," Mr. Bowles said, "in working directly with the OPA organization throughout the country. In this way the field organization will have a strong voice in OPA policies and direct connection at all times to my office."

Dexter M. Keezer, Deputy Administrator of the Office of Price Administration in charge of professional services, has resigned and joined the Office of Lend-lease to work with the Harriman Mission in London.

SELECTIVE SERVICE BEGINS TO RECLASSIFY FATHERS

Directive to Local Boards Announces Policy to Govern Their Induction

Selective Service local boards have been instructed to begin reclassification of fathers 18 to 37 years old, inclusive, with children born before September 15, 1942, so as to make them available by order number for induction into the armed forces after October 1. The directive includes the following provisions:

1. Fathers will be drafted only in such number as is absolutely required by a local board to meet a monthly call from the armed forces that cannot be filled from men, other than fathers, who are not eligible for occupational deferment.

2. Fathers will be called according to their Selective Service order numbers, without distinction regarding the number or ages of their dependent children.

3. Fathers who are "key men" in agriculture or essential industry will be deferred.

4. Fathers whose induction would cause extreme hardship and privation to their families will be deferred.

Chairman McNutt of the War Manpower Commission stated:

"Fathers will be inducted after October 1 only to the extent necessary to supplement the supply of single men, men with collateral dependents only, and maried men without children who become available each month and are not eligible for occupational deferment. Those fathers who are key men in agriculture or essential industry, or whose induction would cause severe hardship for their families, will be deferred."

Prior to the directive issued today, fathers with children born before September 15, 1942, were deferred and not available for military service except for those who had transferred from essential agriculture to another activity without permission of their local boards, or were engaged in nondeferable activity or occupation.

Local boards are instructed to comb the ranks of men who previously had

been examined and deferred in IV-F as unfit for military service, and to sift out registrants who now may be qualified for duty. They were told likewise to give careful scrutiny to other deferred classifications, obtaining all other available manpower before ordering fathers to report for induction.

The decision as to the reclassification of each individual father will rest with the local board, subject to appeal. The record of these registrants will be reviewed in the order of their order numbers to determine their availability for military service.

COLD STORAGE SPACE USE RESTRICTED BY WFA ORDER

List of Products Issued for Which Space Can No Longer Be Utilized

To assure adequate cold storage space for foods that will spoil unless kept at low temperatures, the War Food Administration on July 31 issued FDO 70 and FDO 70-1 listing products that can no longer be stored in refrigerated warehouses and requiring cold storage operators to report the amount of such products in storage on the effective date of the order, and semi-monthly thereafter the amount of cooler and freezer space occupied for all purposes.

Beer, wine, liquor; canned fruits and vegetables (except citrus concentrates); sterile canned meat; dried whole milk in certain types of containers; canned condensed milk and dried skim and evaporated milk; canned processed cheese, and flour and cereal products must be moved out of refrigerated space after the expiration of the current storage month applicable to each item or lot of commodities in storage. Cold storage operators are prohibited from accepting these products for storage after August 2.

The WFA also has restricted advance space reservations in an effort to prevent cold storage facilities from lying idle because of future commitments.

Cold storage space, normally tight in the period from mid-July through mid-September is even more short this year because of (1) increased production and storage of eggs, (2) storage of a considerable quantity of the early crop of Irish potatoes in order to minimize the loss of this crop, (3) increase in the slaughter of livestock and the effort to build up reasonable stocks of meat supplies, (4) forthcoming apple harvest, and (5) large stocks of butter which the Government is accumulating now to provide for winter war needs.

Advance reservations for space, WFA officials stated, have helped to create an artificial shortage on top of the tight storage situation resulting from the larger production and into-storage movement of many perishable foods.

The orders apply to all public cold storage warehouses, cold storage houses operated by meat packing plants, and cold storage houses usually known as apple houses, but not to refrigerated storage space in wholesale and retail stores.

PRIORITY IN RECRUITMENT OF CANNERY EMPLOYEES

The War Manpower Commission has taken action to relieve the critical shortage of laborers for canning operations in Virginia, Maryland, North Carolina and West Virginia by directing the Manpower Directors for these states to give until August 20 priority in recruitment of laborers for food processing plants. This step was taken in the form of a telegram sent on August 3, 1943, by Leo. R. Werts, Regional Director of the War Manpower Commission for Region IV comprising these four states. The text of Mr. Werts' telegram follows:

Labor need in food processing plants is so critical as to necessitate adoption of extraordinary measures for temporary period. Until August 20, priority in recruitment is to be given food processing orders over all other orders except for farm workers. Priority, as used here, is to mean that, so long as a local office has an unfilled order for food processing workers, that order is to have first call upon the facilities of that office until adequate provision is made for either filling it or establishing the impossibility of filling it. It also means that every suitable applicant is to be offered these jobs before he is considered for any other jobs except farm work which will have the same priority. Interstate food processing orders are subject to terms of "governors agreement" which provide that priority is to be given to intrastate agricultural and food processing orders. Until August 20, interstate food processing orders, therefore, are to be given priority second to intrastate agricultural and food processing orders but first priority with respect to all other orders. Copies of "governors' agreement" are being mailed.

BAE ISSUES SURVEY ON THE NATIONAL FOOD SITUATION

In a report on the national food situation, the Bureau of Agricultural Economics, Agriculture Department, states that total food production in 1943 probably will exceed the record 1942 production by 4 per cent and the average for the period 1935-39 by 31 per cent. This forecast is based on the July crop report, the assumption of average weather for the remainder of the year, and a continuation of the present trend in livestock production. Food crops are expected to be 10 per cent below 1942 production although 11 per cent above the average for 1935-39.

Seventy-five per cent of our total 1943 food production, the report states, has been allocated to civilians, about 13 per cent to our military forces, 10 per cent to Lend-lease, and the remaining 2 per cent for shipment to our territories and for special needs.

Present estimates indicate that the civilian per capita consumption for the year as a whole will be about 4 per cent larger than the average in 1935-39, but 6 per cent smaller than the record consumption in 1941.

According to statistics in this report the apparent civilian consumption on a per capita basis of each of five groups of canned foods was as follows:

	1935-39	1941	1942	1943
	Lbs.	*Lbs.*	*Lbs.*	*Lbs.*
Fish and shellfish	5.0	3.7	3.2	2.5
Milk, cond. and evap.	16.8	18.9	19.0	16.0
Fruits	15.0	19.2	15.8	9.0
Fruit juices	5.4	9.2	6.2	7.0
Vegetables	(a)	41.6	43.1	36.0

a Not available.

The total production of each of these five groups of canned foods as given in the report is shown in the following table:

	1935-39	1941	1942	1943
	Mill. lbs.	*Mill. lbs.*	*Mill. lbs.*	*Mill. lbs.*
Fish and shellfish	699	726	647	602
Milk, cond. and evap.	2,224	3,555	3,782	3,300
Fruits [a]	1,666	2,298	2,273	1,621
Fruit juices [b]	459	939	856	1,322
Vegetables [c]	(d)	[e]209,460	[e]238,575	[e]220,600

a Includes apples and applesauce, apricots, berries, cherries (including brined), cranberries, figs, fruit cocktail, fruits for salad, grapefruit segments, olives, pineapples, plums and prunes, peaches, and pears.

b Includes grape, grapefruit, lemon, orange, pineapple, and miscellaneous.

c Includes asparagus, beans (lima), beans (snap) beets, carrots, corn, peas, pimientos, pumpkin and squash, spinach, tomatoes, tomato pulp and tomato juice, cabbage (kraut), hominy, Irish potatoes, sweet potatoes, kraut juice, okra, rhubarb, succotash, tomato sauce, paste, and catsup, vegetable puree (including baby foods), other greens, and mixed vegetables.

d Not available.

e Thousands of 24/2 cases.

Frozen Fish Price Revision

Revisions of processors' and wholesale distributors' ceiling prices for frozen salt water fish and other seafood priced under MPR 364 will be issued soon, the Office of Price Administration announced August 3. The statement was made in answer to inquiries from the industry. The revisions will be made to bring maximum prices for frozen fish generally into line with fishermen's and wholesalers' ceiling prices for fresh fish and other seafood.